

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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NORTHFIELD INSURANCE COMPANY,

Plaintiff,

- against -

MEMORANDUM & ORDER

19-CV-195 (PKC) (RML)

ABC CONSTRUCTION & HOME
IMPROVEMENT, INC., BJ BERAN, ANIL
BERAN, 18823 WOODHULL, LLC, JRS
CONSTRUCTION & EXPEDITING
SERVICES, INC., and SANTOS MARCIANO
GATICA CASARRUBIAS,

Defendants.

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PAMELA K. CHEN, United States District Judge:

Plaintiff Northfield Insurance Company brought this action on January 10, 2019 (*see generally* Complaint, Dkt. 1), seeking a declaratory judgment that it has no duty to defend and/or indemnify Defendants ABC Construction & Home Improvement, Inc. (“ABC Construction”), BJ Beran, Anil Beran, 18823 Woodhull, LLC (“Woodhull”), and/or any other person or organization in connection with an underlying action filed in New York Supreme Court, Kings County, by Defendant Santos Marciano Gatica Casarrubias (Amended Complaint, Dkt. 11, ¶ 1).¹ Defendants ABC Construction, BJ Beran, Anil Beran, JRS Construction, and Casarrubias have not appeared in this action. Defendant Woodhull initially appeared through counsel and filed an answer to Plaintiff’s amended complaint. (Dkt. 31.) Woodhull’s counsel subsequently filed a motion to

¹ In the underlying action, Casarrubias sued Defendants ABC Construction, BJ Beran, Woodhull, and JRS Construction & Expediting Services, Inc. (“JRS Construction”) for personal injuries that Casarrubias sustained at a construction site in Queens, New York, on November 8, 2016. (R&R, Dkt. 58, at 1; Complaint in Underlying Action, Dkt. 54-2, ¶¶ 40, 44.)

withdraw (Dkt. 35), and Woodhull's principal indicated that he did not intend to retain new counsel for Woodhull after being advised that this would result in default in favor of Plaintiff (Aug. 28, 2019 Minute Entry). Following the Clerk's Entry of Default as to each Defendant (Dkts. 45, 46, 47, 48, 49, 53), Plaintiff moved for default judgment against Defendants on September 20, 2019 (Dkt. 54). This motion was referred to the Honorable Steven M. Gold, United States Magistrate Judge, for a Report and Recommendation ("R&R") pursuant to 28 U.S.C. § 636(b) and Local Rule 72.1(d).

On May 4, 2020, Judge Gold recommended that Plaintiff's motion for default judgment be granted and that a judgment be entered declaring that Plaintiff has no obligation to defend and/or indemnify Defendants ABC Construction, BJ Beran, Anil Beran, Woodhull, and/or any other person or organization in the underlying action. (R&R, Dkt. 58, at 3.) The R&R notified Defendants of their right to file written objections to the R&R, pursuant to 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72(b)(2). (*Id.* at 11.) A copy of the R&R was served on all Defendants on May 6, 2020. (*See* Affidavit of Service, Dkt. 59.)

A district court reviewing a magistrate judge's R&R "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). Where no party objects to the magistrate judge's recommendation, the district court "need only satisfy itself that there is no clear error on the face of the record." *Jarvis v. N. Am. Globex Fund L.P.*, 823 F. Supp. 2d 161, 163 (E.D.N.Y. 2011) (citation omitted). The statutory period for filing objections has expired, and no objections to Judge Gold's R&R have been filed.

The Court has reviewed both the record and Judge Gold's thorough and well-reasoned R&R. Finding no clear error in Judge Gold's decision, the Court adopts the R&R in its entirety, grants Plaintiff's motion for default judgment, and orders that a judgment be entered declaring that

Plaintiff has no obligation to defend and/or indemnify Defendants ABC Construction, BJ Beran, Anil Beran, Woodhull, and/or any other person or organization in the underlying action, *Casarrubias v. 188-23 Woodhull LLC et al.*, Index No. 503973/2017 (N.Y. Sup. Ct., Kings Cty.). The Clerk of Court is respectfully directed to enter judgment and close this case accordingly.

SO ORDERED.

/s/ Pamela K. Chen

Pamela K. Chen

United States District Judge

Dated: May 22, 2020
Brooklyn, New York